Article

LOBBYING: ITS ROLE IN AND IMPACT ON THE US GOVERNMENT SYSTEM

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Introduction. *The article provides an overview of lobbying regulations in the United States. The US lobbying legislation is an integral part of the whole country legislation system, with its regulations helping, in particular, to make the influence exerted by lobbyists on the decision-making process transparent. The status-quo of lobbying anywhere except the US, Canada and the European Union is nonidentical as there still have not been enacted any direct laws and statutory instruments regulating this field elsewhere [8]. Lobbying is thus apt to be misinterpreted due to its misperceiving and insufficient awareness. Consequently, the myth that "bribing" is an equitable sobriquet for "lobbying" is still going strong and has yet to be dissected. The author delves into the origins and history of lobbying in the US, tracing its enhancement and indicating legal loopholes still remaining despite seemingly exhaustive disclosure required. The author equally inquiries into theoretical justifications for regulating lobbying from deliberative democratic theory. "Grassroots lobbying" and "shadow lobbying" constitute likewise matters of concern to the article.*

Materials and methods. *The author employs both general and specialized scientific methods in the study. The issue of US lobbying development is addressed by means of historical method. In detecting legal loopholes and propounding other approaches used in relation to them either on federal level or in certain states, a comparative legal analysis and a logical method are combined.*

Study results. *The research has revealed that lobbying activities in general and lobbying practices in particular unfold at every level of government. The acts adopted throughout the US lobbying history provide a range of definitions for the terms "lobbyist" and "lobby groups", clarify the status of lobbyists and circumscribe the cases of obligatory disclosure of lobbying activities. Lobbying appears to be a thriving field due to it exerting immense influence on legislative process, as well as the outcome of the elections. Last but not least, the study has ascertained the US lobbying system as*

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the one attempting not to leave any of lobbying activities opaque from public perspective by means of eliminating legal loopholes. Thus, lobbying regulations significantly contribute to fostering transparency and democracy overall.

Discussion and conclusion. *From our perspective, lobbying exists even when unregulated, hence not only its regulations do not constitute corruption, but they can also serve as a means of outlawing the latter by bringing policy makers under close scrutiny, i.e. establishing certain limitations pertaining their interactions with lobbyists and lobby groups hence the decision-making process. With the aforesaid aim, as well as with the aim of keeping the decision-making process transparent in general, lobbying legislation in the US has been gradually developing in scale and sophistication to eventually encompass the vast number of lobbying interactions.*

The average American doesn't realize how much of the laws are written by lobbyists.
– Eric Schmidt

Introduction

Topicality of the issue raised. The issue this paper concerns can be regarded as topical, as it is lobbying that possesses one of central roles in forming governmental bodies and amending their decisions in the US. The elections in the US can serve as an instance: getting elected, as well as re-elected, requires immense expenses that lobbyists often incur to contribute into the campaign of those who are not personally wealthy. Finally, with the mass media contemporary enhancements lobbyists have obtained many more channels of influence [6].

Literature review. Lobbying is broadly examined in literature, however, with some theoretical, historical and various nascent fields yet to be delved deeper into, such as the influence of new media on the activity, as well as the roots of regulations and lobbying itself. As for the works worth referring to when discovering the role of lobbying, ones most comprehensive and elaborate to a significant degree are the following.

"Lobbying: The Art of Political Persuasion" by Lionel Zetter embraces even such previously largely unexamined fields as the influence that third-party spoilers exert on lobbying activities, as well as such nascent fields as considerable influence of web-pages and blogs on politicians resorted to by lobbyists.

"Regulating Lobbying: A Global Comparison" by Raj Chari, John Hogan, Gary Murphy and Michele Crepaz contradistinguishes lobbying from bribing, which it is still merged with, by means of highlighting the degree of transparency lobbying strives to impose. "Regulating Lobbying…" also considers the phenomenon of inevitability of lobbying regulations from the prospective of deliberative democratic theory as a subgroup of participatory democracy.

"Agendas, Alternatives, and Public Policies" by John W. Kingdon discovers the reasons that served as an impulse for concrete lobbying regulations. In the work, John W. Kingdon introduces the term "opening of a policy window" for the aforesaid phenomenon.

Study

Delineation of the issues to be raised being vital, it is crucial to define the terms at this early stage. Primarily, the definition of lobbying is what will expose the range of activities subject to regulation. Likewise, the definition of lobby groups will illustrate who the actors themselves are. Yet finding finite definitions has proved immensely complicated since they vary depending upon the literature used, frequently being as wide as the poles apart. The one of Baumgartner and Leech is parsimonious, yet quite exhaustive: lobbying, according to them, is "an effort to influence the policy process", or, in other words, actions taken with the aim of impacting decisions taken at the political level. As for the term "lobby groups" or "interest groups", they are widely defined as the subjects influencing the aforementioned decisions. Lobby groups are classified in a number of ways, the classifications contrasting sharply in respective pieces of research. Some take into consideration the type of interests the groups promote (either private or public ones), simultaneously considering their target sphere. Thus, interest groups are divided into public and private ones, with the former implying the groups concerned about environment, rights, safety etc. and the latter encompassing economic and professional ones [7].

Another critical point that should not go unmentioned is the negative connotation that

the term "lobbyist" has been saddled with in the US due to inappropriate actions of lobbyists in the past. In the view thereof, this activity has now acquired alternative descriptions such as public affairs executive or government relations executive [6].

As for the necessity of lobbying regulations, from the prospective of deliberative democratic theory, a subgroup of participatory democracy, the legitimacy of policy-makers lies in policy decisions being publicly available, hence in enhancing public freedoms and rights to interfere. In this regard, deliberative democracy must be against imposing seemingly excessive regulations. And yet, regulating the spere of lobbying is a kind of "a necessary evil", a means of constraining lobbyists' actions and enabling public to gauge "who is influencing what" with the aid of the respective register. When unregulated, lobbying actions make the electorate struggle to comprehend whether a representative has taken their interest into consideration or the outcomes are dominantly influenced by concealed actions of anonymous influencers [7]. Finally, regulated lobbying is juxtaposed to bribing (although lobbying regulations are not primarily aimed at outlawing corruption).

Lobbying has existed since time immemorial. Whenever power over some members of society was wielded, there would be discontented groups attempting to persuade powers that be to conduct policy in a particular way. Ancient Greek and Roman "lobbyists", certainly not named this way yet, sought to influence senators and plebeians when convoked to forums. Courtiers, who bygone kings and princes reigned with, played the selfsame role, "lobbying" certain interests. The barons' rebellion in England is a case in point: had it not been of this "lobbying" action, King John would not have signed the Magna Carta Libertatum in 1215, hence the British democracy evolution might have been remoulded.

As for the term itself, its origin is still a source controversy and is attributed either to Westminster or to Washington. The school of thought supporting the first theory refers to either the Members' Lobby or the Central Lobby of the Palace of Westminster. As the second theory goes, the word "lobbyist" came to be used in early 1860s, when President Ulysses S. Grant scornfully gave the respective name to people who sought to influence him clustering in Willard Hotel lobby and struggling to attract the President's attention. Anyways, whatever theory is spot-on, the US is undoubtedly the place where lobbying itself originated as an organised commercial activity.

The outline of legal regulation of lobbying began to take shape in 1791 with the adoption of Bill of Rights comprising the first ten amendments to the US Constitution. The first amendment, in particular, conferred petitions and applications rights on the citizens: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances"[1].

Besides instituting a basis for further lobbying activities, the Bill of Rights, namely the second amendment stated therein, withal provided a scope for political disagreement, which was fertile soil for rebuttal, hence lobbying of conflicting interests. The second amendment runs as follows: "…the right of the people to keep and bear arms, shall not be infringed"[2]. The amendment has been fiercely defended by the pro-gun lobbying leviathan National Rifle Association (hereinafter NRA) since 1871, i.e. any attempts to control gun ownership face their resistance. As opposed to NRA, the Coalition to Stop Gun Violence, as well as the Educational Fund to Stop Gun Violence, lobby restricting gun ownership [6].

Returning to the history of lobbying in the US and its further legal implementation, an attempt to institute an obligation for interest groups to register in Congress was made in 1876, yet the attempt foundered. In 1935, the Public Utilities Holding Company Act was adopted, which entailed the obligation to fill in particular documents in Securities and Exchange Commission (hereinafter SEC) if one was attempting to influence Congress, SEC or the Federal Energy Regulatory Commission. In 1936, the Merchant Marine Act followed, with a resemblant stipulation requiring that shipbuilding companies and dockyards representatives disclose their activity. The Foreign Agents Registration Act (hereinafter FARA) was enacted hereafter, in 1938. FARA requirements applied to certain foreign principals' agents engaged in political and other activities specified under the statute and consisted in periodic

[1] The Bill of Rights // archives.gov URL: https://www.archives.gov/files/legislative/resources/education/bill-of-rights/images/handout-3.pdf (date of access: 30.01.2020).

[2] *Ibid.*

public disclosure thereof, as well as receipts and disbursements related to them[3]. Such pursuit of transparency was encouraged by fascist Germany representatives' influencing Congress and other US governing bodies activity at that time. The main negative of all three acts lied in them applying to a narrow range of citizens engaged in lobbying activities rather than to all lobbyists [1].

It was not until 1946 that the first general act was adopted, namely the Federal Regulation of Lobbying Act (hereinafter FRLA). FRLA required registration for those trying to "influence, directly or indirectly, the passage or defeat of any legislation by the Congress of the United States". The Act differentiated between lobbying and bribing: it contained a proviso that FRLA applied neither to practices or activities regulated by the Federal Corrupt Practices Act, nor to repealing any of stipulations thereof[4].

Strange as it may seem, some interactions (namely those with the Executive Branch representatives) did not fall within the scope of regulation of FRLA either. It resulted in amending RFLA in 1995 by enacting the Lobbying Disclosure Act (hereinafter LDA), which encompassed the aforesaid sphere [1].

Overall, LDA includes a vast number of interactions; howbeit, it was also amended substantially in 2007 with the adoption of the Honest Leadership and Open Government Act (hereinafter HLOGA)[5], which is effective from then onwards. To a certain extent, HLOGA emerged owing to what was described by a political scientist John Kingdon as the opening of a policy window [5]. The concept implies that changes tend to unfold when a crisis develops, since the latter enables governmental decisionmakers to seize the chance of making a difference. Thus, just as FARA emerged by reason of concerns relating to fascist German interests in America, HLOGA was a respond to a kind of crisis, namely the scandal of Jack Abramoff, a lobbyist convicted of attempted bribery [2].

HLOGA bans any gifts and travels that a lobbyist could provide to "a Member, officer, or employee of Congress, if the person has knowledge that the gift or travel may not be accepted under the rules of the House of Representatives or the Senate"[6]. In addition, it subsumes the Lobbying Transparency and Accountability Act (hereinafter LTAA) tightening LDA stipulation. LTAA strikes "semiannual report" and inserts "quarterly report" about lobbying activities, diminishes the amount of income sufficient for obligatory registration[7] and introduces criminal penalty: "Whoever knowingly and corruptly fails to comply with any provision of this Act shall be imprisoned for not more than 5 years or fined under title 18, United States Code, or both"[8].

Regulations adopted hereafter, i.e. corresponding laws and executive orders since 2009, have been particularly concerned with the "revolving door" issue. The term "revolving door" implies switching employees between the public and private sectors. Lobbying firms would willingly hire a former public-sector employee given extensive knowledge of a political system and the access to former public sector colleagues that such an employee must have[9]. Nonetheless, however favourable such a trump card may be, it creates breeding ground for conflicts of interests, as well as ethical dilemmas, which opens another political window hence catalyzes the appearance of new regulations.

In 2009, an Executive Order about Ethics Commitments by Executive Branch Personnel was issued. It runs that those having acted as lobbyists before any executive agency appointment shall not participate in any particular matter involving specific parties related to their former employer or former clients within a period of two years from the appointment date. Likewise, the Order imposes a two-year restriction

[3] The Foreign Agents Registration Act // justice.gov URL: https://www.justice.gov/nsd-fara (date of access: 01.02.2020).

[4] United States Code.1988 Edition. Title 2, Chapter 8a, № 270 PUBLIC LAW 104–65—DEC. 19, 1995 // govinfo.gov URL: https://www.govinfo.gov/content/pkg/PLAW-104publ65/pdf/PLAW-104publ65.pdf (date of access: 01.02.2020).

[5] *Ibid.*

[6] *Ibid.*

[7] Title II —Full public disclosure of lobbying // congress.gov URL: https://www.congress.gov/bill/110th-congress/house-bill/2316/text#toc-HCCAE7207BA2C4653ABAE3BECE4D311C7 (date of access: 02.02.2020).

[8] *Ibid.*

[9] CRS Exec Branch Lobbying Capstone Final Report 2017-2018 // bush.tamu.edu URL: https://bush.tamu.edu/psaa/capstones/2018/CRS%20Exec%20Branch%20Lobbying%20Capstone%20Final%20Report%202017-2018.pdf (date of access: 02.02.2020).

on lobbying career for the appointees leaving Government[10].

The Executive Order about Ethics Commitments by Executive Branch Appointees of 2017 pursued the self same idea with the aim of increasing transparency and eliminating ethical dilemmas. The Order substituted a two-year period of abstaining from lobbying activities after the termination of the employment as an appointee in any executive agency with a five-year one. The Order also requires that any appointee sign the following pledge: "I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party"[11].

Overall, regulations pertaining to lobbying activities in the US have experienced sequential increase in the degree of their elaborateness, as well as gradual closing of legal loopholes begot by a wide range of factors.

To recapitulate, the US lobbying can be traced back to 1791, when the right to lobby has become enshrined in the US constitution as the right to petition (hence lobby) Congress [6]. Lobbying in the US has developed enormously in scale and sophistication since then, but nowadays further amendments are nevertheless considered, as there still exist legal loopholes, facilitating so-called "shadow lobbying", an activity performed by "shadow lobbyists", whom a political scientist Timothy LaPira defines as professionals paid to challenge or defend the policy status quo, subsidize policymakers with information etc., or those who offer expertise, knowledge, and access in support of these activities – and yet who do not register as lobbyists [13].

To that end, the definitional flaws in LDA are noteworthy: following the definition of a term "lobbyist" therein, lobbyists are the ones who make "lobbying contacts" with public officials on behalf of their clients. As a matter of fact, being engaged in lobbying activities rather than direct lobbying contacts suffices to exert influence on decision-makers [12]. "Grassroots lobbying" can serve as an example: it is the act of asking the general public to contact legislators and government officials rather than conveying the message to them directly. When amending LDA in 2007, Senate even tried to enact statutory instruments regulating "grassroots lobbying", yet the attempt was abandoned on the grounds that such regulations might violate the constitutional right to petition guaranteed in the first amendment [2].

The remainder of that definition states that the number of lobbying contacts requisite for a lobbyist to be characterized as such must exceed one per quarter, necessarily with reimbursement. Then, a lobbyist is supposed to spend more than 20% of their time lobbying these or that interests. Consequently, all those direct contacts and/or spending even 19% of their time on lobbying but still exerting influence on governmental officials appear to be exempt from registration and disclosure of their actions [13]. Moreover, the definition of a direct "lobbying contact" circumscribes the scope of activities that the term implies, containing 19 exceptions, hence allowing to avoid disclosure of a vast number of lobbying contacts[12]. A huge number of interactions go unregulated, undermining the transparency the US lobbying legislation has restlessly strived for throughout its history.

Another legal loophole is linked with such a significant means of lobbying activities as financing political parties and campaigns for federal office. The Federal Election Campaign Act of 1971 (hereinafter FECA) imposes restrictions on the amounts of monetary or other contributions lawfully able to be made by lobbyists and mandates disclosure of such contributions [2]. These limits were originally intended to prevent excessive contributions threatening the system integrity and legitimacy, as well as representative democracy. However, subverting them takes merely asking business partners to donate to a particular candidate. It results in non-compliant lobbyists' having significant privileges in terms of influencing policy-makers by contrast to those abiding by the restrictions [9].

As for correlation of FECA with other statutory instruments, the scope of interactions particular stipulations of FECA (namely those

[10] Executive Order 13490 -- Ethics Commitments By Executive Branch Personnel // obamawhitehouse.archives.gov URL: https://obamawhitehouse.archives.gov/the-press-office/ethics-commitments-executive-branch-personnel (date of access: 02.02.2020).

[11] Executive Order: Ethics Commitments by Executive Branch Appointees // whitehouse.gov URL: https://www.whitehouse.gov/presidential-actions/executive-order-ethics-commitments-executive-branch-appointees/ (date of access: 03.02.2020).

[12] Lobbying Disclosure Act of 1995 // www.senate.gov URL: https://www.senate.gov/legislative/Lobbying/Lobby_Disclosure_Act/3_Definitions.htm (date of access: 07.02.2020).

regulating fund-raising) and HLOGA (those focused on banning gifts from lobbyists) regulate overlap to a certain extent so that lobbyists can "find a way around", as Jack Abramoff, the aforementioned lobbyist convicted of attempted bribing, commented on 60 Minutes. He gave the following example: "You can't take a congressman to lunch for $25 and buy him a hamburger or a steak or something like that ... But you can take him to a fund-raising lunch and not only buy him that steak, but give him $25,000 extra and call it a fund-raiser – and have all the same access and all the same interactions with that congressman" [12].

It is worth to mention that lobbying legislation development takes place on the levela of he states of the US as well. Each state retains its substantial degree of freedom of action due to the US being a genuine example of federal system. Individual states have their own authority to decide on a vast number of issues, provided their decisions do not contravene the US constitution and do not stray in to the areas of responsibility of federal system. All the existing states, i.e. 50 of them, have equal access to the aforesaid right. Even though four of them are known as commonwealths (Kentucky, Massachusetts, Pennsylvania and Virginia), the practical difference is not instituted in any statue. Before proceeding to the issue of lobbying laws in separate states it is crucial to specify that this right conferred on the states only contributes into flourishing of the state capital lobbyists' practices, since while every state has the right to institute its own legislation – and to set its own budgets – there is plenty of work for them [6].

The adoption of laws regulating lobbying in the states has been a lengthy and gradual process. The first state law prohibiting lobbying practices preceded the regulative one. It was enacted in the state of Georgia in 1877 and prohibited personal appeals to General Assembly members if those were aimed at aiding or opposing political decisions. The penalty in case of noncompliance consisted in up to 5-year imprisonment [2].

The first state law regulating lobbying was adopted at 1890. It is the first case when the term "lobbyist" was defined [2]. In the 1960s and 1970s, over half the existing states enacted lobbying statutory instruments, and today registration of lobbyists is mandatory everywhere. Lobbyists are required to register with the secretary of state, the clerk of the house or secretary of the senate, or with a special commission. Filing reports periodically is requisite in all but five states, and reporting expenditures is prescribed by law in four-fifth of the states [3].

States' legislation frequently deviates vastly from general laws. In Pennsylvania, gifts are not illegal (by contrast to HLOGA stipulations) unless they constitute confrontations of interests or a quid pro quo, i.e. imply some value in response. Nonetheless, gifts disclosure is envisaged in the state, and gifts' names and amount, as well as the source's address, must be reported to the Pennsylvania Department of State if the gifts" value equates or exceeds $250[13].

The state of Washington, the birthplace of lobbying, is considered to have one of the most elaborate lobbying regulation systems [2]. Washington is one of 36 states mandating grassroots lobbying disclosure notwithstanding the absence of federal regulations in this regard. Pursuant to the Revised Code of Washington, anyone who has made expenditure exceeding five hundred dollars within three months or two hundred dollars within a month in public presentation of a program in its substantial part designed to influence legislation shall register as a sponsor of grassroots lobbying campaign[14].

One of the last states to adopt regulations of lobbying activities was the state of New Jersey . The corresponding legislation was enacted only in the 1960's. Though it was recommended by the legislative committee in 1906 that lobbyists register and report their annual expenditures, almost 60 years had passed before it happened. Only in 1964, the Legislative Activities Disclosure Act was adopted. Its requirements implied registration of lobbyists, as well as quarterly disclosure of lobbying practices with the Secretary of State. The Act still lacked requirements concerning full financial disclosure, but included listing of bills being lobbied. In 1971, the Attorney General came to bear the lobbying responsibilities previously borne by the Secretary of State [11].

Thus, lobbying regulations vary from state to state in terms of their stringency and elaboration, diverging vastly even from federal legisla-

[13] Pennsylvania lobbying registration and reporting // lexmundiprobono.org URL: https://www.lexmundiprobono.org/Document.asp?MODE=DOWNLOAD&DocID=7309 (date of access: 27.02.2020).

[14] 2018 Revised Code of Washington (RWC) Title 42 - PUBLIC OFFICERS AND AGENCIES 42.17A.640 Grass roots lobbying campaigns. // law.justia.com URL: https://law.justia.com/codes/washington/2018/title-42/chapter-42.17a/section-42.17a.640/ (date of access: 28.02.2020).

tion but still amplifying the latter and helping foster transparency.

An inherent characteristic of the US lobbying legislation is the sustainable development. Throughout its history, it has elaborated enormously in terms of sophistication and has come to be an integral part of the US system of laws and government as a whole. Here are several reasons for such prevalence of lobbying and proliferation of laws regulating it in the US.

Firstly, what sufficiently facilitated and is still maintaining the growth of lobbying activities hence corresponding legislation is immense expenses that have to be incurred when getting elected, as well as re-elected, in the US, particularly to the House of Representatives, since representatives have a two-year tenure of office. On average, a candidate for the House of Representatives spends $2m on advertisements on radio, TV etc. The expenses of those getting elected or re-elected to the Senate account for upwards of $10m, and these figures substantially increase when it comes to Presidency candidates – up to $300m may be spent. Unless a candidate is of immense wealth, he appears to be deprived of the prospect of ever being elected despite his imprescriptible right of the kind. Nonetheless, this merely means that fund-raising is crucial. Individual party members are undoubtedly able to donate, yet these donations are mainly not ample, since hitting the mark of several millions, as an example, takes hundreds of thousands of $10 cheques. Large donations have to be sought, and here comes lobbyists' aid. Means via which they make contribution are as follows. Lobbyists form Political Actions Committees (hereinafter PACs) are able to provide a candidate or candidate committee with $5,000 for each election. Another means is setting up Independent Expenditure Committees, tax-exempt organizations, themselves receiving unrestrained investments from any source, including both individuals' contributions and corporations' ones. Furthermore, these Independent Expenditure Committees can serve as a channel via which PACs are able to donate soft money (unburdened by any restrictions) along with hard (strictly controlled and restrained by a 5000$ amount). One more technique of the kind is "bundling", the US distinctive one, which is frowned upon, but still not considered to be a failure to comply with regulations. "Bundling" is a one-off donation, in which a particular person acts as a conduct and provides a candidate with donations gathered from a range of sources: several individuals and organisations. Another fruitful means consists in lobbyists' attending fund-raising breakfasts, lunches and dinners, enabling to raise considerably large amounts of money – prices of about $2000 a head are quite common. The next instrument is seconding those elected either by making contributions to non-party committees, or via encouraging "non-party" candidates' registration [6]. As the law runs, a private individual is entitled to donate up to $95 thousand within a two-year time, whereas donations of a legal entity are restricted by a $5 thousand amount a head [1]. Finally, providing rivalrous and accomplished political campaigners, as well other activists, with lobbyists during elections is a sufficient contribution [6].

Another reason for which lobbying thrives in the US is equally relevant to any other country with a democratic system elaborated to such an extent. Media exerts sustained influence on the way politicians think: in the US, each Congress Member from either House will regularly check their local papers, as well as the US national press, the Wall Street journal, The New York Times etc.; the President will read them equally as eagerly. Policymakers, just as all American citizens, watch the TV news programmes, especially ABS, Fox News and CNN. New media should not go unmentioned either: those are web-pages and blogs, whose influence cannot be overestimated. This phenomenon is certainly widely used by lobbyists so as to have a desired effect on policy-makers [6].

Study results

The study has revealed that the factors that begot the proliferation of the US lobbying and its significance in the system are as follows. Firstly, it is lobbying that exerts huge influence on the outcome of the elections and is critical when it comes to financing the candidates thereof. Secondly, the proliferation of new media exerting sustained influence on the way politicians think has become an effective channel helping lobbying thrive. Besides, whenever the activity develops into new forms, new regulations tend to appear. On these grounds, lobbying has advanced remarkably in scale and sophistication.

It has also been discovered that nowadays further amendments to lobbying legislation are considered, as there still exist legal loopholes. "Grassroots lobbying" and "shadow lobbying" are especially the maters of concern. Besides, legislative definitions are quite likely to be further amended so as to circumscribe the scope of actors considered to be lobbyists and not to leave any of lobbying activities opaque.

Finally, the research has ascertained that lobbying is of the most valuable democracy in-

stitutions in the US. Were it not for the requirement to disclose lobbying activities, the electorate would be uncertain whether a representative has taken their interest into consideration or the outcome is a result of unregulated hence unseen lobbyists' actions.

Conclusion

The degree of elaborateness and sophistication, yet transparency, which lobbying legislation in the US has come to attain, is preceded by its long history, tracing back to 1791. The significance of lobbying in the US government system is irrefutable, and its coming to be legally implemented in the US only reaffirms this assertion. The activity itself unfolds at every level of government; likewise, its elaborate legal regulations take place on federal, state, county, municipal and even local levels. Lobbying exerts a significant influence on the system of the US government and undoubtedly fosters the development of democracy institutions, but some challenges will always be ahead notwithstanding.

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ЛОББИЗМ: ЕГО РОЛЬ И ВЛИЯНИЕ НА МЕХАНИЗМ ВЛАСТИ США

Введение. *В статье представлен обзор регулирования лоббистской деятельности в США. Законодательство США о лоббизме является неотъемлемой частью всей законодательной системы страны, и его положения служат, в частности, цели обеспечения прозрачности лоббистской деятельности. Правовой статус лоббизма за пределами США, Канады и Европейского Союза принципиально иной, т.к. в остальной части мира не существует четкой системы регулирования лоббистской деятельности, как и конкретных, посвященных этому законодательных актов. В этой связи низка осведомленность о данном институте, из-за чего термин «лоббизм» вследствие неверного истолкования зачастую приравнивается к коррупции. Автор исследует происхождение и историю лоббизма в США, рассматривает*

развитие его законодательного регулирования, а также пробелы и т.н. «лазейки» в законодательстве, имеющие место, несмотря на высокие требования к раскрытию информации о лоббистской деятельности. Автор также исследует теоретические обоснования необходимости регулирования лоббизма с позиций концепции делиберативной (совещательной) демократии. Проблемы «лоббизма по инициативам масс» и «теневого лоббизма» также рассмотрены в статье.

Материалы и методы. *В исследовании автор использует как общие, так и специально-научные методы. При рассмотрении развития регулирования лоббистской деятельности используется исторический метод, в то время как при разрешении вопроса о возможных пробелах и «лазейках» в законодательстве, а также при поиске решений проблемы в расхожем регулировании на уровне федерации или штатов автор прибегает к сравнительно-правовому и логическому методам.*

Результаты исследования. *В результате изучения вопроса лоббистской деятельности США выявлено, что лоббистская деятельность имеет место на всех уровнях власти. Акты, принятые в ходе исторического развития лоббизма, содержат ряд определений терминов «лоббист» и «лоббистские группы», все более конкретизируют статус лоббистов и очерчивают случаи обязательного раскрытия информации о лоббистской деятельности. Лоббизм оказывает серьезное влияние на законодательный процесс, а также на результаты выборов. Наконец, отмечено стремление законодателя США максимизировать прозрачность лоббистской деятельности посредством устранения «лазеек» в законодательных актах. Законодательное регулирование лоббизма, таким образом, значительно способствует повышению прозрачности в данной сфере и развитию демократических институтов в целом.*

Обсуждение и заключение. *На наш взгляд, лоббизм существует даже в том случае, если не регулируется законодательно, именно поэтому его регулирование не только не является актом «узаконенной коррупции», но и, напротив, служит средством предотвращения коррумпированности политиков за счет законодательных ограничений их взаимодействий с лоббистами и лоббистскими группами и, следовательно, обеспечения прозрачности процесса принятия решений. В связи с этим законодательство о лоббировании в США по мере развития постепенно охватывает все больший круг общественных отношений.*

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Ключевые слова:
лоббизм в США, лоббизм по инициативе масс, теневое лоббирование, лоббистские группы, заинтересованные группы, происхождение лоббизма, история лоббизма, законодательство США, «окно политики» Д. Кингдона.

Keywords:
US lobbying, grassroots lobbying, shadow lobbying, lobby groups, interest groups, origins of lobbying, history of lobbying, US legislation, policy window.

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